

ELECTION OF SPECIES WITH SPECIFIC TRAVERSE

This is in reply to the Office Action of August 7, 2006, in which the Office identified a plurality of species among the claims and presented a requirement to elect one of the species for prosecution on the merits. The applicants hereby traverse the restriction requirement as specifically outlined below, or in the alternative, the applicants elect species 8 as identified in the Office Action, corresponding to figure 13, for prosecution on the merits at this time, pending the rejoinder of other species.

Claims 1, 2, and 24-28 were identified as generic in the Office Action, and read on species 8. The applicants respectfully submit that claims 3-12 and 30-32 are also clearly readable on figure 13, because their specific subject matter is explicitly depicted in FIG. 8, such that claims 3-12 and 30-32 also belong with the elected species.

Additionally, the applicants submit that claims 13-23, 29, and 33-40 are addressed to the same inventive concept as species 8 and are plainly and eminently compatible with the explicit depiction of species 8 in figure 13, and are therefore readable on species 8. The applicants therefore respectfully request that claims 13-23, 29, and 33-40 be examined together with the other claims.

The applicants specifically traverse the restriction requirement because claims 1-40 are all consistent with and applicable to each of the identified species, such that the subject matter of each of claims 1-40 is either explicitly depicted in the figures for each of the identified species, or is plainly applicable to subject matter conforming to the depiction of the species, within the scope of the claimed invention. The applicants also submit that all of the figures depict different embodiments within the same inventive concept that illustratively indicate some of the breadth and variety of the inventive concept of the claims. There is no requirement in the law or the rules

that a claimed invention be confined to a single embodiment. The applicants respectfully maintain that examination of claims 1-40 in light of all identified species together would be appropriate. The applicants therefore request that the restriction requirement be withdrawn, and that claims 1-40 be examined together.

Additionally, the MPEP clearly asserts that to require restriction between claims limited to species, the claims must not overlap in scope. MPEP 806.04(f). However, many of the present claims identified with a species do have overlapping scope. For example, all of the slider-identified species claims, 3-12 and 30-32, have overlapping scope, as illustratively embodied in all of these claims reading on figure 13. Furthermore, several of the pivot-identified claims can also have simultaneous overlapping scope with the slider-identified claims. For example, figure 13 could have simultaneous overlap in scope of claims 13-16, 19-20, 22-23, 29, 33-35, and 38-40 from among the pivot-identified claims together with all generic and slider-identified claims, as an illustrative example. The applicants respectfully submit that this indicates that requiring restriction between the group of slider-identified claims and all of the pivot-identified claims would not be appropriate. MPEP 806.04(f).

The applicants further respectfully submit that the search and examination of claims 1-40 can be made without serious burden, and should therefore all be examined together on the merits, regardless of whether they define a plurality of independent or distinct inventions. MPEP 803. In particular, in order to establish reasons for insisting on a restriction with reference to independent or distinct claims, an examiner must show that each of plural identified inventions is recognized as a separate subject for inventive effort and/or has a separate field of search. MPEP 808.02. However, the Office Action does not allege any of these rationales for demonstrating that examination without

restriction would pose a serious burden, giving further cause why the restriction requirement should be withdrawn.

The applicants thereby respectfully request the withdrawal of the restriction requirement and the subsequent examination of claims 1-40 on the merits; or in the alternative, the applicants elect species 8 as identified in the Office Action, corresponding to figure 13.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

WESTMAN, CHAMPLIN & KELLY, P.A.

By: 

Bryan F. Erickson, Reg. No. 51,655
900 Second Avenue South, Suite 1400
Minneapolis, Minnesota 55402-3319
Phone: (612) 334-3222
Fax: (612) 334-3312

BFE